

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	4:08CR3067
)	
Plaintiff,)	
)	
vs.)	MEMORANDUM
)	AND ORDER
GARY ZIERKE,)	
)	
Defendant.)	

This matter comes on to consider the government's motion to advance trial date (filing [79](#)) to avoid Speedy Trial problems. Subsequently, the defendant filed a motion to continue or maintain trial date (filing [80](#)) since the defendant has subpoenaed witnesses for a trial date of January 12, 2009. The defendant's motion filed December 12, 2008 states: "This motion is filed by the defense, as such, it should toll any speedy trial considerations." In light of the defendant's concession,

IT IS ORDERED that:

- (1) The government's motion to advance trial date (filing [79](#)) is denied and the defendant's motion to continue or maintain trial date (filing [80](#)) is granted. The defendant's trial will remain scheduled to commence on January 12, 2009.

- (2) The time between December 12, 2008 and January 12, 2009 is excluded under the Speedy Trial Act and in the interest of justice and to allow the defendant time to subpoena witnesses. See [18 U.S.C. § 3161](#).

December 18, 2008.

BY THE COURT:

s/ *Richard G. Kopf*
United States District Judge